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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/673,945	09/29/2003	Robert J. Stoppek	P06669US0-5178	1641

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DES MOINES, IA 50309-2350

EXAMINER
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JIMENEZ, MARC QUEMUEL

ART UNIT	PAPER NUMBER
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3726

DATE MAILED: 05/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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**Office Action Summary**

Application No.

10/673,945

Applicant(s)

STOPPEK, ROBERT J.

Examiner

Marc Jimenez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) 1 and 2 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 3-7 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 September 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election of Group II, Claims 3-7 in the reply filed on 3/21/05 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

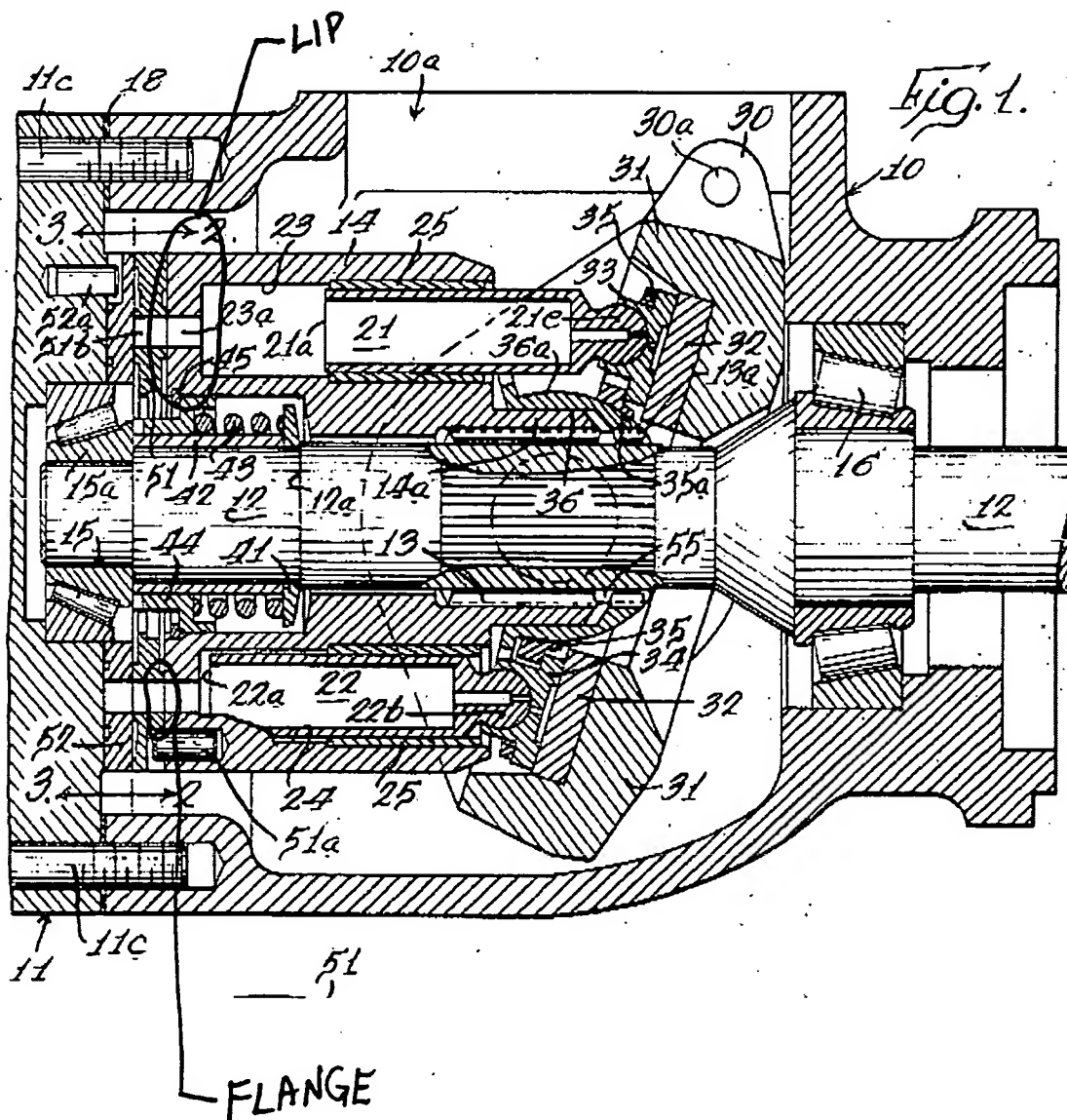
(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. **Claim 3** rejected under 35 U.S.C. 102(b) as being anticipated by Moon et al. (US 3,585,901).

Moon et al. teach a method of making a cylinder block for a rotatable hydrostatic power member, comprising steps of: forming a base plate **51** having a center opening with arcuate kidney-shaped uniformly spaced radially located bores **51b** and a flange; forming a cylinder block **14** having a center cylindrical bore, uniformly spaced radially located cylindrical bores **23a** having a smaller diameter than the center cylindrical bore, and a lip that mates with the flange of the base plate **51**; securing the base plate **51** to the cylinder block **14** along the lip and flange;

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disposing a wave spring 43 through the center cylindrical bore; forming a hub 12 and disposing the hub 12 through the center bore so that the hub 12 is partially within the cylindrical cylinder block 14. See copy of figure 1 below for what is considered the "flange" and "lip".



### Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. **Claims 4-6** are rejected under 35 U.S.C. 103(a) as being unpatentable over Moon et al. in view of Wilkosz et al. (US 5,655,432).

Moon et al. teach the invention cited with the exception of using net shaping technologies.

Wilkosz et al. teach a forging process including near net shaping (col. 4, lines 15-16).

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the invention of Moon et al. with near net shaping technologies, in light of the teachings of Wilkosz et al., in order to create a part that meets the desired final production tolerance, as suggested by Wilkosz et al. at col. 4, lines 17-18.

6. **Claim 7** is rejected under 35 U.S.C. 103(a) as being unpatentable over Moon et al.

Moon et al. teach the invention cited with the exception of the base plate being secured to the cylinder block using resistance welding. However, official notice is taken that resistance welding is a well known welding technique to a person of ordinary skill in the art, at the time of the invention, that provides a secure attachment.

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***Contact Information***


7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc Jimenez whose telephone number (571) 272-4530. The examiner can normally be reached on Monday-Friday between 5:30 a.m.-2:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (571) 272-4690. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MJ

April 15, 2005

  
MARC JIMENEZ  
PRIMARY EXAMINER  
4/12/05